

MEL:JRS
F.#2019R00382

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE APPLICATION OF
THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE
USE OF PEN REGISTERS AND TRAP
AND TRACE DEVICES

TO BE FILED UNDER SEAL

**APPLICATION FOR A PHONE PEN
REGISTER AND TRAP AND TRACE
DEVICE**

No. 19-MC-1164

Jonathan Siegel, an Assistant United States Attorney for the Eastern District of New York, hereby applies to the Court for an Order pursuant to 18 U.S.C. §§ 3122 and 3123, authorizing for a period of 60 days the installation and use of pen registers and trap and trace devices on (1) 201-283-7734, a telephone with International Mobile Subscriber Identity (“IMSI”) Number 354255097677993; and (2) 347-512-5605, both of which are issued by Sprint Corporation (the “service provider”) (the “SUBJECT TELEPHONES”). The subscriber information for the SUBJECT TELEPHONES is unknown, but both SUBJECT TELEPHONES are believed to be possessed by and used by VALENTE PALACIOS TELLEZ, also known as “Valentine Palacios.”

In support of this application I state the following:

1. I am an Assistant United States Attorney in the Office of RICHARD P. DONOGHUE, United States Attorney for the Eastern District of New York. As such, I am an “attorney for the Government” as defined in Rule 1(b)(1) of the Federal Rules of Criminal

Procedure, and therefore, pursuant to 18 U.S.C. § 3122, may apply for an Order authorizing the installation and use of pen registers and trap and trace devices.

2. The Court has authority to order the installation and use of a pen register or a trap and trace device anywhere in the United States if the Court finds that the attorney for the government has certified to the Court that the information likely to be obtained is relevant to an ongoing criminal investigation. 18 U.S.C. §§ 3122 and 3123. As the United States Court of Appeals for the Second Circuit has explained, an application for a pen register or trap and trace device

need only identify the applicant and the investigating law enforcement agency and certify that “the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.” 18 U.S.C. § 3122(b)(2). The provision was not intended to require independent judicial review of relevance; rather, *the reviewing court need only verify the completeness of the certification.*

In re United States, 10 F.3d 931, 935 (2d Cir. 1993) (emphasis added); *accord In re Applications*, 515 F. Supp. 2d 325, 329 (E.D.N.Y. 2007) (explaining “minimal requirement” of Section 3122(b)).

3. Based on information provided to me by a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement (the “investigative agency”), I hereby certify that the investigative agency is conducting an ongoing criminal investigation into possible violations of federal criminal laws, including illegal reentry after having been removed subsequent to a conviction for a felony, in violation of 8 U.S.C. §§ 1326(a) and (b)(1), by VALENTE PALACIOS TELLEZ, also known as “Valentine Palacios,” occurring in the Eastern District of New York and elsewhere, and that

the information likely to be obtained from pen registers and trap and trace devices on the SUBJECT TELEPHONES is relevant to that investigation.

4. Based upon the above certification, the government requests that the Court issue an Order that provides:

a. Pursuant to 18 U.S.C. §§ 3122 and 3123, authorization for the installation and use of pen registers to record or decode dialing, routing, addressing, or signaling information — excluding the decoding of post-cut-through dialed digits (“PCTDD”)¹ — transmitted from the SUBJECT TELEPHONES, to record the date and time of such dialings or transmissions, and to record the length of time the telephone receiver in question is “off the hook” for incoming or outgoing calls for a period of 60 days beginning from the date of installation, but in any event beginning no more than 14 days from the date of this Order.

b. Pursuant to 18 U.S.C. §§ 3122 and 3123, authorization for installation and use of trap and trace devices on the SUBJECT TELEPHONES to capture and record the incoming electronic or other impulses which identify the originating numbers or other dialing, routing, addressing, or signaling information reasonably likely to identify the sources of wire or electronic communications and to record the date, time and duration of

¹ PCTDD “are digits that are dialed from a telephone after a call is connected or ‘cut-through.’” *In re Application*, 632 F. Supp. 2d 202, 203 n.1 (E.D.N.Y. 2008). Pursuant to the proposed Order to Service Provider, if possible, the provider will forward only pre-cut-through-dialed digits to the investigative agency. If the provider’s technical capabilities require it to forward all dialed digits including PCTDD, however, the investigative agency will only decode and forward to the assigned agents the numbers that are dialed before the call is cut through. Thus no PCTDD will be decoded or accessed by anyone. *See id.* at 204 n.3 (“It is irrelevant that the provider will forward PCTDD to the Government and that the Government will therefore be able, if it violates the court order, to record and decode it.”).

calls created by such incoming impulses, for a period of 60 days beginning from the date of installation, but in any event beginning no more than 14 days from the date of this Order, and that the tracing operations be without geographical limits.

c. Pursuant to 18 U.S.C. § 3123(b)(1)(C), authorization for the requested installation and use of pen registers and trap and trace devices to include the use of such pen registers and trap and trace devices on any changed telephone numbers assigned to an instrument bearing the same IMSI as the SUBJECT TELEPHONES, or any changed IMSI subsequently assigned to the same telephone numbers as the SUBJECT TELEPHONES, or any additional changed telephone number and/or IMSI, whether the changes occur consecutively or simultaneously, listed to the same subscribers and account numbers as the SUBJECT TELEPHONES within the 60-day period authorized by this Order.

5. The government further requests that the Court direct the service provider, and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the Order, to notify agents of the investigative agency, upon oral or written request, of any and all changes (including additions, deletions, and transfers) in service regarding the SUBJECT TELEPHONES, including telephone numbers (published and non-published, and excepting call detail records as described in 18 U.S.C. § 2703(c)(2)(C)) associated with these service changes.

6. The government further requests that, pursuant to 18 U.S.C. § 3123(a)(1) and (b)(2), the Court direct that, upon service of the Order upon them, the service provider and any other person or entity providing wire or electronic communication service in the United States whose assistance may facilitate execution of the Order furnish

the information, facilities, and technical assistance necessary to accomplish unobtrusively the installation and use of the pen registers and trap and trace devices with compensation to be paid by the investigative agency for reasonable expenses directly incurred in providing such facilities and assistance.

7. The government further requests that the Order direct the service provider, and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the Order, to furnish the results of the pen register and trap and trace device installations to agents of the investigative agency as soon as practicable, and on a continuing basis, 24 hours a day for the duration of the Order.

8. Finally, pursuant to 18 U.S.C. § 3123(d), the government also requests that the service provider, and any other person or entity whose assistance is used to facilitate execution of the Order be ordered not to disclose to the listed subscribers of the telephones, or to any other person (a) the existence of the Order of Authorization; (b) the existence of the Order to Service Provider; and (c) the existence of the pen registers and trap and trace devices to the listed subscribers for the SUBJECT TELEPHONES, the subscribers of the telephones initiating incoming calls to or receiving outgoing calls from the SUBJECT TELEPHONES, or to any other person, unless and until otherwise ordered by the Court. Any such disclosure might jeopardize this investigation because it would alert the target to the existence of an investigation and might lead to the destruction and/or concealment of evidence and/or the flight of target. *See* 18 U.S.C. § 3123(d) (“An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that — (1) the order be sealed until otherwise ordered by the court; and (2) the person owning or

leasing the line or other facility to which the pen register or a trap and trace device is attached or applied, or who is obligated by the order to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.”).

9. No prior request for the relief set forth herein has been made except to the extent set forth above. The foregoing is affirmed under the penalties of perjury. *See* 28 U.S.C. § 1746.

Dated: Brooklyn, New York
May 1, 2019

/s/ Jonathan Siegel
Jonathan Siegel
Assistant United States Attorney
(718) 254-6293

F.#2019R00382

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE APPLICATION OF
THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE USE
OF PEN REGISTERS AND TRAP AND TRACE
DEVICES

SEALED ORDER
OF AUTHORIZATION

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This matter comes before the Court pursuant to an application by Assistant United States Attorney Jonathan Siegel, an attorney for the Government as defined by Rule 1(b)(1) of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3127(5) requesting an Order pursuant to 18 U.S.C. §§ 3122 and 3123, authorizing for a period of 60 days the installation and use of pen registers and trap and trace devices on (1) 201-283-7734, a telephone with International Mobile Subscriber Identity (“IMSI”) Number 354255097677993; and (2) 347-512-5605, both of which numbers are issued by Sprint Corporation (the “service provider”) (the “SUBJECT TELEPHONES”). The subscriber information for the SUBJECT TELEPHONES is unknown.

UPON REVIEW OF THE APPLICATION, THE COURT HEREBY FINDS THAT, pursuant to 18 U.S.C. § 3123, Applicant has certified that the information likely to be obtained by use of a pen register and a trap and trace device is relevant to an ongoing criminal investigation being conducted by the United States Department of Homeland Security, Immigration and Customs Enforcement (the “investigative agency”) into possible violations of federal criminal laws, including illegal reentry after having been removed subsequent to a conviction for a felony, in violation of 8 U.S.C. §§ 1326(a) and (b)(1), by

VALENTE PALACIOS TELLEZ, also known as “Valentine Palacios,” occurring in the Eastern District of New York and elsewhere, and that the information likely to be obtained from pen registers and trap and trace devices on the SUBJECT TELEPHONES is relevant to that investigation.

IT IS HEREBY ORDERED, pursuant to 18 U.S.C. § 3123, that agents of the investigative agency may install, or cause to be installed, and use pen registers to record or decode dialing, routing, addressing, or signaling information transmitted from the SUBJECT TELEPHONES — excluding the decoding of post-cut-through dialed digits (“PCTDD”)² — to record the date and time of such dialings or transmissions, and to record the length of time the telephone receiver in question is “off the hook” for incoming or outgoing calls for a period of 60 days beginning from the date of installation, but in any event beginning no more than 14 days from the date of this Order, and that the tracing operations be without geographical limits.

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 3123, that agents of the investigative agency may install, or cause to be installed, and use trap and trace devices on the SUBJECT TELEPHONES to capture and record the incoming electronic or other impulses which identify the originating number, or other dialing, routing, addressing, and

² PCTDD “are digits that are dialed from a telephone after a call is connected or ‘cut-through.’” *In re Application*, 632 F. Supp. 2d 202, 203 n.1 (E.D.N.Y. 2008). Pursuant to the proposed Order to Service Provider, if possible, the provider will forward only pre-cut-through-dialed digits to the investigative agency. If the provider’s technical capabilities require it to forward all dialed digits including PCTDD, however, the investigative agency will only decode and forward to the assigned agents the numbers that are dialed before the call is cut through. Thus no PCTDD will be decoded or accessed by anyone. *See id.* at 204 n.3 (“It is irrelevant that the provider will forward PCTDD to the Government and that the Government will therefore be able, if it violates the court order, to record and decode it.”).

signaling information reasonably likely to identify the source of a wire or electronic communication, and to record the date, time, and duration of calls created by such incoming impulses, for a period of 60 days beginning from the date of installation, but in any event beginning no more than 14 days from the date of this Order, and that the tracing operations be without geographical limits.

IT IS FURTHER ORDERED that this authorization for the installation and use of pen registers and trap and trace devices applies not only to the telephone number listed above for the SUBJECT TELEPHONES, but also to any changed telephone numbers assigned to an instrument bearing the same IMSI as the SUBJECT TELEPHONES, or any changed IMSI subsequently assigned to the same telephone numbers as the SUBJECT TELEPHONES, or any additional changed telephone number and/or IMSI, whether the changes occur consecutively or simultaneously, listed to the same subscribers and wireless telephone account numbers as the SUBJECT TELEPHONES within the 60-day period authorized by this Order.

IT IS FURTHER ORDERED that the service provider and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the Order notify agents of the investigative agency, upon oral or written request, of any and all changes in service regarding the SUBJECT TELEPHONES to include telephone numbers (published and non-published and excepting call detail records as described in 18 U.S.C. § 2703(c)(2)(C)) associated with these service changes.

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 3123(a)(1) and (b)(2), that upon service of this Order upon it, the service provider and any other person or entity

providing wire or electronic communication service in the United States whose assistance may facilitate execution of the Order shall furnish agents of the investigative agency forthwith all information, facilities, and technical assistance necessary to accomplish the installation and use of the pen registers and trap and trace devices unobtrusively and with minimum interference.

IT IS FURTHER ORDERED that the service provider and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the Order furnish the results of the pen register and trap and trace device installations to agents of the investigative agency as soon as practicable, and on a continuing basis, 24 hours a day for the duration of the Order.

IT IS FURTHER ORDERED that the service provider and any other person or entity whose assistance is used to facilitate this Order be compensated by the investigative agency for reasonable expenses directly incurred in providing such assistance.

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 3123(d), that this Order and the application be sealed until otherwise ordered by the Court, and that the service provider, its representatives, agents and employees, and any other person or entity involved in facilitating this Order shall not disclose in any manner, directly or indirectly, by any action or inaction, (a) the existence of the Order of Authorization; (b) the existence of the Order to Service Provider; and (c) the existence of the pen registers and trap and trace devices to the listed subscribers for the SUBJECT TELEPHONES, the subscribers of the telephones

initiating incoming calls to or receiving outgoing calls from the SUBJECT TELEPHONES,
or to any other person, unless or until otherwise ordered by the Court.

Dated: Brooklyn, New York
May 1, 2019

THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

F.#2019R00382

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE APPLICATION OF
THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE USE OF
PEN REGISTERS AND TRAP AND TRACE
DEVICES

SEALED ORDER
TO SERVICE PROVIDER

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WHEREAS this Court has, upon the application of the United States of America, entered an Order pursuant to 18 U.S.C. §§ 3121 *et seq.*, authorizing the use of pen registers and trap and trace devices for a period of 60 days on (1) 201-283-7734, a telephone with International Mobile Subscriber Identity (“IMSI”) Number 354255097677993 and an unknown subscriber; and (2) 347-512-5605, a telephone with an unknown subscriber (the “SUBJECT TELEPHONES”), in connection with an ongoing criminal investigation;

Now therefore, it is hereby:

1. ORDERED, pursuant to 18 U.S.C. § 3123, that agents of the United States Department of Homeland Security, Immigration and Customs Enforcement (the “investigative agency”) may install, or cause to be installed, and use pen registers to record or decode dialing, routing, addressing, or signaling information transmitted from the SUBJECT TELEPHONES to record the date and time of such dialings or transmissions, and to record the length of time the telephone receiver in question is “off the hook” for incoming or outgoing calls for a period of 60 days beginning from the date of installation, but in any event beginning no more than 14 days from the date of this Order.

2. IT IS FURTHER ORDERED that, to the extent possible in light of the service provider's technical capabilities, the service provider shall forward to the investigative agency only those digits dialed before a call is cut-through. However, to the extent that the service provider is unable to exclude post-cut-through dialed digits, the service provider shall forward all dialed digits to the investigative agency.

3. IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 3123, that agents of the investigative agency may install, or cause to be installed, and use trap and trace devices on the SUBJECT TELEPHONES to capture and record the incoming electronic or other impulses which identify the originating number, or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, and to record the date, time, and duration of calls created by such incoming impulses, for a period of 60 days beginning from the date of installation, but in any event beginning no more than 14 days from the date of this Order, and that the tracing operations be without geographical limits.

4. IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 3123(b)(1)(C), that this authorization for the installation and use of pen registers and trap and trace devices applies not only to the telephone numbers listed above for the SUBJECT TELEPHONES, but also to any changed telephone numbers assigned to an instrument bearing the same IMSI as the SUBJECT TELEPHONES, or any changed IMSI subsequently assigned to the same telephone numbers as the SUBJECT TELEPHONES, or any additional changed telephone number and/or IMSI, whether the changes occur consecutively or simultaneously, listed to the same subscribers and wireless telephone account numbers as the SUBJECT TELEPHONES within the 60-day period authorized by this Order.

5. IT IS FURTHER ORDERED that the service provider and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the Order notify agents of the investigative agency, upon oral or written request, of any and all changes (including additions, deletions, and transfers) in service regarding the SUBJECT TELEPHONES to include telephone numbers (published and non-published, and excepting call detail records, as described in 18 U.S.C. § 2703(c)(2)(C)) associated with these service changes.

6. IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 3123(a)(1) and (b)(2), that upon service of this Order upon it, the service provider and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the Order shall furnish agents of the investigative agency forthwith all information, including but not limited to telephone subscriber information, facilities, and technical assistance necessary to accomplish the installation and use of the pen registers and trap and trace devices unobtrusively and with minimum interference.

7. IT IS FURTHER ORDERED that the service provider and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the Order furnish the results of the pen register and trap and trace device installations to agents of the investigative agency as soon as practicable, and on a continuing basis, 24 hours a day for the duration of the Order.

8. IT IS FURTHER ORDERED that the service provider and any other person or entity that provides technical assistance in executing this Order be compensated by the investigative agency for reasonable expenses directly incurred in providing such assistance.

9. IT IS FURTHER ORDERED that this Order shall be sealed until otherwise ordered by the Court, except that copies may be retained by the United States Attorney's Office, the investigative agency, the service provider and any other person or entity whose assistance is used to execute this Order.

10. IT IS FURTHER ORDERED, finally, that unless and until otherwise ordered by the Court, the service provider and its representatives, agents and employees, and any other person or entity providing technical assistance in executing this Order shall not disclose until further notice in any manner, directly or indirectly, by any action or inaction: (a) the existence of the Order of Authorization; (b) the existence of the Order to the Service Provider; and (c) the existence of the pen registers and trap and trace devices to the listed subscribers for the SUBJECT TELEPHONES, the subscribers of the telephones initiating incoming calls to or receiving outgoing calls from the SUBJECT TELEPHONES, or to any other person, unless or until otherwise ordered by the Court.

Dated: Brooklyn, New York
May 1, 2019

THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

TO: Clerk's Office
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



APPLICATION FOR LEAVE
TO FILE DOCUMENT UNDER SEAL

IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
AUTHORIZING THE USE OF PEN
REGISTERS AND TRAP AND TRACE
DEVICES

19-MC-1164

Docket Number

SUBMITTED BY: Plaintiff ___ Defendant ___ DOJ ☒

Name: Jonathan Siegel

Firm Name: U.S. Attorney's Office - EDNY

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INDICATE UPON THE PUBLIC DOCKET SHEET: YES ___ NO ☒

If yes, state description of document to be entered on docket sheet:

MANDATORY CERTIFICATION OF SERVICE:

A.) ___ A copy of this application either has been or will be promptly served upon all parties to this action, B.) ___ Service is excused by 31 U.S.C. 3730(b), or by the following other statute or regulation: _____; or C.) ☒ This is a criminal document submitted, and flight public safety, or security are significant concerns. (Check one)

May 1, 2019

DATE

/s/ Jonathan Siegel

SIGNATURE

A) If pursuant to a prior Court Order:

Docket Number of Case in Which Entered: _____

Judge/Magistrate Judge: _____

Date Entered: _____

B) If a new application, the statute, regulation, or other legal basis that authorizes filing under seal

Ongoing investigation

**ORDERED SEALED AND PLACED IN THE CLERK'S OFFICE,
AND MAY NOT BE UNSEALED UNLESS ORDERED BY
THE COURT.**

DATED: Brooklyn, NEW YORK
May 1, 2019

U.S. DISTRICT JUDGE/U.S. MAGISTRATE JUDGE

RECEIVED IN CLERK'S OFFICE May 1, 2019

DATE